

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MAINE

In re:

**KEVIN A. FALLEN, &  
SUNDAE D. FALLEN,**

Debtor(s)

Chapter 13

Case No. 14-20077

**DEBTORS' MOTION FOR LEAVE TO DESIGNATE AN EXPERT WITNESS AND TO  
AMEND SCHEDULES I, J AND BUSINESS BUDGETS**

NOW COME Debtors, by and through counsel, Law Office of J. Scott Logan, LLC, and respectfully request this Court for leave to designate an expert witness and to amend their schedules to clarify concerns raised by the Trustee. In support thereof, Debtors assert as follows:

1. Debtors filed their Chapter 13 case on February 19, 2014.
2. Debtors' First Amended Chapter 13 Plan calls for total payments of \$40,443.14.
3. On February 20, 2015, this Court entered a pretrial scheduling order requiring Debtors and LBM to make initial disclosures by February 27, and Debtors to designate experts by March 6, 2015, and the other parties to do so by April 4, 2015.
4. On March 6, 2015, Debtors made their initial disclosures. In that document, they identified their anticipated appraiser, but noted no appraisal had been completed.
5. To date, LBM appears not to have filed initial disclosures.
6. Debtors did not designate the appraiser as an expert witness, in part because they had no appraisal.
7. On March 27, the Parties filed an Amended Pretrial Order. That order indicated Debtors had missed the Expert deadline, and gave LBM until June 4, 2015. However, it also provided the parties would exchange witnesses/experts by June 25, 2015.
8. LBM hired Brendan Hall to appraise the property, leaving few commercial appraisers available to Debtors in Maine. Although LBM chose not to use his appraisal, Debtors could no longer hire him.

9. LBM instead hired another appraiser whose appraisal was issued to a different client, for a different purpose, and was prepared without Debtors' cooperation.
10. Debtors encountered difficulty finding an appraiser and were surprised at the \$2,900.00 quote, over 7% of their total plan budget.
11. Vinal Pendexter visited the property, then underwent an unanticipated partial foot amputation that delayed his preparation of an appraisal until June 19, 2015.
12. Debtors now have his appraisal, a complete appraisal of all of the Debtors' property. They believe this appraisal will facilitate the finding of an accurate value for the property.
13. Debtors' Counsel met with the Trustee's staff attorney on June 19, 2015. At that meeting, the staff attorney expressed consternation at the Schedule I disclosure of wages apparently paid to the Debtors by their disincorporated business. Debtors acknowledge that such income could be better characterized as a "draw," and should be more clearly noted on the Schedules. Social Security income for a minor child was also listed under the wrong Debtor.
14. Debtors have circulated a proposed confirmation order that clarifies the termination of payments as to certain prepetition creditors whose claims are no longer secured. Debtors wish to file that order.

WHEREFORE, Debtors respectfully request this Court to entertain their tardy designation of an expert witness as essential to determining the true value of Debtors' interest in their property and to amend their schedules and confirmation order to clarify certain issues previously disclosed less clearly, and to grant such other and additional relief as it deems just and necessary.

Dated June 24, 2015

LAW OFFICE OF J. SCOTT LOGAN, LLC

By: /s/ J. Scott Logan  
J. Scott Logan, Esq.

Counsel for Debtors  
75 Pearl Street, Ste. 211  
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(207) 699-1314

### **CERTIFICATE OF SERVICE**

I, J. Scott Logan, Esq., do hereby certify that I am over eighteen years old and I have this day caused a true and correct copy of Motion to Designate Expert Witness and to Amend Schedules, Business Budget and confirmation order, proposed order and hearing notice to be served on the parties at the addresses set forth on the Service List attached hereto via either electronically or via first class U.S. Mail, postage prepaid.

Notice will be electronically mailed to:

U.S. Trustee's Office  
Peter C. Fessenden, Esq., Chapter 12 Trustee  
Timothy Stiegelman, Esq.

By: /s/ J. Scott Logan  
J. Scott Logan, Esq.  
Counsel for Debtors  
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